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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,735	06/08/2001	Murray Edward Bruce Leighton	THOM-0014	9850

7590

07/08/2003

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EXAMINER

MEREK, JOSEPH C

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 07/08/2003

*77*

Please find below and/or attached an Office communication concerning this application or proceeding.

*Vis Response*  
*Raymond Scott*

EC

# Office Action Summary

Application No.

09/857,735

Applicant(s)

LEIGHTON, MURRAY EDWARD  
BRUCE

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-14 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 6-10, 12, 14 and 17-27 is/are rejected.
- 7) ☒ Claim(s) 5, 11, 13, and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6-10, 12, 14, and 17-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al (US 6,257,763) in view of Pezzana et al (US 4,481,669). Regarding claims 21, 26, and 27, Stolmeier et al as seen in Figs. 11-13, teaches the claimed invention where 101 is the tag but does not teach the tag being multiplayer. Pezzana et al as seen in Figs. 5-7, teaches the bag being made from a laminate of several layers. It would have been obvious to employ the laminate of Pezzana et al in the bag of Stolmeier et al to provide a stronger bag or for air imperviousness as taught by Pezzana et al in Col. 1, lines 17-19. The tag 101 of Stolmeier et al is made of the same material as the bag. The tag 101 is M shaped. The tag is sealed to the bag at seal lines 102. The inside legs are inside the flanges of the zipper and the outside legs are outside the flanges of the zipper. The inside legs can be lowered so they are withdrawn from within outside legs. The material of the bag has peel seal properties since it is a plastic. It is capable of being sealed in a peelable manner to other plastics. The tag is within the seal, i.e. the zipper since it is within the flanges of the seal. Regarding claim 2, the tag is positioned substantially centrally with

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the margin of the bag. The tag is in the center both left to right as well as front to rear.

Regarding claim 3, the tag is within the contour of the bag sides before being withdrawn. Regarding claim 6, see Fig. 11 or 12 of Stolmeier et al. Regarding claim 7, see Fig. 11 of Stolmeier et al, where the line of weakness is 175. Regarding claim 8, the line of weakness is a row of perforations. Regarding claims 9 and 10, the tag is a laminated material and is at least three layers as seen in Fig. 7 of Pezzana et al.

Regarding claim 12, see Fig. 12. The second seal is 130. Regarding claim 14, see Fig. 13, the first seal is the upper zipper 126 and the second seal is the lower zipper 127.

The upper seal is the upper two members and the lower seal is the lower two members.

The tag is sealed to the inside surface of the flanges. The zipper members are male and female. Regarding claim 17, see Fig. 11 of Stolmeier et al, where the tag extends through seal 102. Seal 102 is the second seal. Regarding claim 18, the modified bag of Stolmeier et al discloses the claimed invention except for that the tag is formed separate from the bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tag separate from the bag, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Regarding claim 19, see Fig. 11 of Stolmeier et al where the line of weakness is 175.

Regarding claim 20, the tag is located within the contour of the sides of the bag as seen in Fig. 11 of Stolmeier et al. Regarding claim 22, the apex of the tuck has the line of weakness 175 as seen in Fig. 11 of Stolmeier et al. Regarding claim 23, the line of weakness is perforations. Regarding claim 24, see Fig. 7 of Pezzana et al where the

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three layers are shown. The middle layer is a strengthening layer. It will make the laminate stronger.

***Allowable Subject Matter***

Claims 5, 11, 13, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

This is a non-final action since previously allowed claims are now being rejected.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wiley and Dobreski et al are both cited for teaching a tag within the seal. Branson et al is cited for teaching a laminated zipper bag.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

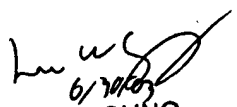
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



JCM  
June 29, 2003



LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700